



**6560-50-P**

**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR Part 52**

**[EPA-R04-OAR-2014-0443 FRL-9935-19-Region 4]**

**Approval and Promulgation of Implementation Plans; Kentucky Infrastructure**

**Requirements for the 2008 Lead NAAQS**

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Final rule.

**SUMMARY:** The Environmental Protection Agency (EPA) is taking final action to approve portions of the July 17, 2012, State Implementation Plan (SIP) submission, provided by the Commonwealth of Kentucky, Energy and Environment Cabinet, Department for Environmental Protection, through the Kentucky Division for Air Quality (KY DAQ) for inclusion into the Kentucky SIP. This final submission pertains to the Clean Air Act (CAA or the Act) infrastructure requirements for the 2008 Lead national ambient air quality standards (NAAQS). The CAA requires that each state adopt and submit a SIP for the implementation, maintenance, and enforcement of each NAAQS promulgated by EPA, which is commonly referred to as an “infrastructure” SIP. KY DAQ certified that the Kentucky SIP contains provisions that ensure the 2008 Lead NAAQS is implemented, enforced, and maintained in Kentucky. With the exception of provisions pertaining to prevention of significant deterioration (PSD) permitting which EPA has already approved, EPA is taking final action to approve Kentucky’s

infrastructure submission, provided to EPA on July 17, 2012, as satisfying the required infrastructure elements for the 2008 Lead NAAQS.

**DATES:** This rule is effective [insert 30 days after date of publication in the Federal Register].

**ADDRESSES:** EPA has established a docket for this action under Docket Identification No. EPA-R04-OAR-2014-0443. All documents in the docket are listed on the [www.regulations.gov](http://www.regulations.gov) web site. Although listed in the index, some information is not publicly available, i.e., Confidential Business Information or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically through [www.regulations.gov](http://www.regulations.gov) or in hard copy at the Air Regulatory Management Section, Air Planning and Implementation Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street, SW, Atlanta, Georgia 30303-8960. EPA requests that if at all possible, you contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section to schedule your inspection. The Regional Office's official hours of business are Monday through Friday, 8:30 a.m. to 4:30 p.m., excluding Federal holidays.

**FOR FURTHER INFORMATION CONTACT:** Zuri Farngalo, Air Regulatory Management Section, Air Planning and Implementation Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street, SW, Atlanta,

Georgia 30303-8960. Mr. Farngalo can be reached by phone at (404) 562-9152 or via electronic mail at [farngalo.zuri@epa.gov](mailto:farngalo.zuri@epa.gov).

## **SUPPLEMENTARY INFORMATION:**

### **I. Background**

Upon promulgation of a new or revised NAAQS, sections 110(a)(1) and (2) of the CAA require states to address basic SIP requirements, including emissions inventories, monitoring, and modeling to assure attainment and maintenance for that new NAAQS. Section 110(a) of the CAA generally requires states to make a SIP submission to meet applicable requirements in order to provide for the implementation, maintenance, and enforcement of a new or revised NAAQS within three years following the promulgation of such NAAQS, or within such shorter period as EPA may prescribe. For additional information on the infrastructure SIP requirements, see the proposed rulemaking published on July 30, 2015 (80 FR 45469).

On July 30, 2015, EPA proposed to approve portions of Kentucky's July 17, 2012, 2008 Lead NAAQS infrastructure SIP submission with the exception of provisions pertaining to PSD permitting in sections 110(a)(2)(C), prong 3 of D(i) and (J). EPA did not receive any comments, adverse or otherwise, on the July 30, 2015, proposed rule. EPA took final action to approve the PSD permitting requirements in sections 110(a)(2)(C), prong 3 of D(i) and (J) on March 18, 2015 (80 FR 14019).

### **II. Final Action**

With the exception of provisions pertaining to PSD permitting requirements, EPA is taking final action to approve Kentucky's July 17, 2012, infrastructure submission because it addresses the required infrastructure elements of the CAA 110(a)(1) and (2) to ensure that the 2008 Lead NAAQS is implemented, enforced, and maintained in Kentucky.

### **III. Statutory and Executive Order Reviews**

Under the CAA, the Administrator is required to approve a SIP submission that complies with the provisions of the Act and applicable Federal regulations. *See* 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the CAA. Accordingly, this action merely approves state law as meeting Federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this action:

- is not a significant regulatory action subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);
- does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104-4);

- does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the Clean Air Act; and
- does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, the SIP is not approved to apply on any Indian reservation land or in any other area where EPA or an Indian tribe has demonstrated that a tribe has jurisdiction. In those areas of Indian country, the rule does not have tribal implications and will not impose substantial direct costs on tribal governments or preempt tribal law as specified by Executive Order 13175 (65 FR 67249, November 9, 2000).

The Congressional Review Act, 5 U.S.C. section 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this action and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United

States prior to publication of the rule in the Federal Register. A major rule cannot take effect until 60 days after it is published in the Federal Register. This action is not a “major rule” as defined by 5 U.S.C. 804(2).

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by [FEDERAL REGISTER OFFICE: insert date 60 days from date of publication of this document in the Federal Register].

Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. *See* section 307(b)(2).

**List of Subjects in 40 CFR Part 52**

Environmental protection, Air pollution control, Incorporation by reference,  
Intergovernmental relations Lead, Reporting and recordkeeping requirements, Volatile organic  
compounds.

Dated: September 24, 2015

Heather McTeer Toney

Regional Administrator,

Region 4.

40 CFR part 52 is amended as follows:

## **PART 52-APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS**

1. The authority citation for part 52 continues to read as follows:

Authority: 42 U.S.C. 7401 *et seq.*

### **Subpart S—Kentucky**

2. Section 52.920(e), is amended by adding an entry for “110(a)(1) and (2) Infrastructure Requirements for the 2008 Lead National Ambient Air Quality Standards” at the end of the table to read as follows:

#### **§ 52.920 Identification of plan.**

\* \* \* \*

(e) \* \* \*

#### **EPA-APPROVED KENTUCKY NON-REGULATORY PROVISIONS**

<b>Name of nonregulatory SIP provision</b>	<b>Applicable geographic or nonattainment area</b>	<b>State submittal date/effective date</b>	<b>EPA approval date</b>	<b>Explanations</b>
**	**	*	*	*
110(a)(1) and (2) Infrastructure Requirements for the 2008 Lead National Ambient Air Quality Standards	Commonwealth of Kentucky	July 17, 2012	[Insert date of publication] [Insert Federal Register citation]	With the exception of provisions pertaining to PSD permitting requirements in sections 110(a)(2)(C), 110(a)(2)(D)(i)(II) (prong 3) and 110(a)(2)(J) only



*[FR Doc. 2015-25576 Filed: 10/8/2015 08:45 am; Publication Date: 10/9/2015]*